

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA **FILED**

JAN 25 2021

JAMES COLE (41167066) F.C.I.

U.S. DISTRICT COURT-WVND
CLARKSBURG, WV 26301

HAZELTON, P.O. BOX 5000, BRUCEYON MILLS, WV.

Your full name

**FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)**

v.

Civil Action No.: 1:21cv9
(To be assigned by the Clerk of Court)

CASE MGR. MCCALL UNIT LA

FBI HAZELTON

Kleeh
Aloi
Williams

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: JAMES COLE Inmate No.: 41167066
Address: FBI HAZELTON, P.O. BOX 5000
BRUCEYON MILLS, WV. 26525

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

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B. Name of Defendant: CASE MGR MCCALL
Position: CASE MGR, UNIT L9
Place of Employment: FCE HAZELTON
Address: P.O. BOX ~~XXXX~~ 450, F.C.C. HAZELTON
BRUCEYON MILLS, WV. 26525 (1610 SKY VIEW DR)
(304) 379-5000

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: DEFENDANT MCCALL,
VIOLATED THE U.S. CONSTITUTIONAL PROTECTION
GARANTEED INMATES AND U.S. CITIZENS, WHEN HE
SEIZED MY LEGAL MAIL, WHILE I WAS IN LOCKDOWN.

B.1 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

B.2 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

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If your answer is "YES," briefly explain: _____

B.3 Name of Defendant: _____

Position: _____

Place of Employment: _____

Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

B.4 Name of Defendant: _____

Position: _____

Place of Employment: _____

Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

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B.5 Name of Defendant: _____
 Position: _____
 Place of Employment: _____
 Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: F.C.I HAZELTON

A. Is this where the events concerning your complaint took place?
☒ Yes ☐ No

If you answered "NO," where did the events occur?

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☒ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
☐ Yes ☒ No

D. If your answer is "NO," explain why not: I contact Correctional Counselor STOUFFER, while he STOUFFER was PASSING OUT, CHRISTMAS BAGS, he COUNSELOR STOUFFER REFUSED to ISSUE AN ADMINISTRATIVE REMEDY BD-8. (FULLY)

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

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and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 DO

LEVEL 2 NO

LEVEL 3 APPLY

IV. PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No
- B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "TV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____
2. Court: _____
(If federal court, name the district; if state court, name the county)
3. Case Number: _____
4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____
6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)
7. Approximate date of filing lawsuit: _____

N/A

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8. Approximate date of disposition. Attach Copies: _____

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

☐ Yes ☐ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

E. Did you exhaust available administrative remedies?

☐ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

N/A

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

1. Parties to previous lawsuit:

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Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number: _____

_____3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

N/A

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: Defendant Case MGR McCall, violated my right to the U.S. Courts, and 1st Amendment rights, ENGAGED IN 9th Amendment Cruel & Unusual Punishment AGAINST me. 5th Amend ment, 6th Amendment 4th Amend ment. MCCALL INFRINGEMENT CAUSED WONTON INJURY.

Supporting Facts: ON Dec. 9, 2020 at 12:30 pm (Unit L1 camera)

ATTACHMENT (A)

JAMES COLE (91167066)

MR McCALL, CAN BE SEEN ON THE UNIT L4 CAMERA RETRIEVING MY LEGAL MAIL, THROUGH MY CELL-DOOR. BASED UPON SOUND JUDGMENT. ONCE HE, CASE MGR. McCALL NOTICE MY LEGAL MAIL, FROM "PHILADELPHIA INNOCENT PROJECT" MS. MARSSA BLUESTEIN, ESQ AND IT DEMONSTRATE I WAS "ACTUAL INNOCENT" HOWEVER I HAD NO NEWLY DISCOVERED EVIDENCE (AUG 2018) TO GET BACK INTO COURT. THE CASE MGR McCALL SEIZED MY LEGAL MAIL IN VIOLATION OF THE U.S. CONSTITUTIONAL PROTECTIONS 1ST, 5TH, 6TH, AND 8TH AMENDMENT WITH 4TH AMENDMENT CONSEQUENCES.

I, declare under 28 USC 1746. True

James Cole
JAMES COLE

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I witness, Case Mr McCall at cell 318, I politely called MCCALL, while the Unit was on a COVID-19 lockdown, to copy my LEGAL MAIL, I wanted to present to my court-appointed attorney and Honorable JARED KUSHNER for Clemency + Compassionate Relief. McCall retained my → ATTACH

CLAIM 2: MCCALL, VIOLATION my 6th Amendment RIGHT TO COUNSEL, AND CONSTITUTED A 8th Amendment CRUEL + UNUSAL PUNISHMENT. BEING CONFINED IN PRISON AND there IS DOCUMENTATION, that would have allow YOUR Freedom.

Supporting Facts: He MR MCCALL, SEIZED my LEGAL MAIL demonstrating I am being held in violation of the U.S. CONSTITUTION AND my RIGHT TO COUNSEL. I WAS SENDING A COPY TO Hon. JARED KUSHNER, to APPLY to my CLEMENCY APPLICATION

CLAIM 3: Mc McCall, Violated my 4th Amendment RIGHT TO HAVE my LEGAL-MAIL ON my PERSON.

Supporting Facts: By SEIZING my LEGAL-MAIL, McCall VIOLATED the 4th Amendment to the U.S. CONSTI. THIS SEIZURE WAS ILLEGAL. I COULD POSSES, LEGAL MAIL WITH my NAME ON IT.

CLAIM 4: MCCALL VIOLATED the 5th + 6th Amendment TO The U.S. CONSTITUTION.

Supporting Facts: My LEGAL MAIL, FROM "PENNSYLVANIA INNOCENT PROJECT" TEMPLE UNIVERSITY, MS. MARISSA BLUESTEIN, ESQ.

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WOULD HAVE AND COULD HAVE ALLOWED, me
 TO GET BACK INTO COURT, I WAS SENDING A COPY TO
 PHILADELPHIA FEDERAL DEFENDER'S, MS ELIZABETH L. TOPLIN ESQ
 TO BE PRESENTED TO MY JUDGE WITH MY COMPASSIONATE RELEASE APP.

CLAIM 5: _____

Supporting Facts: _____

VI. INJURY

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

THIS DOCUMENT, COULD HAVE ALLOWED PRESIDENT TRUMP
 TO GRANT CLEMENCY, DUE TO MY INNOCENT. BEING RESTRAINED.
 FOR A CRIME YOU DID NOT COMMIT, LOSING "ENJOYMENT OF LIFE,"
 "ANXIETY" PAIN + SUFFERING CONTINUATION. ALSO, I COULD HAVE
 ATTACH TO MY COMPASSIONATE RELEASE. THE CONTINUED CONFINEMENT
 CONSTITUTE 8th AMENDMENT CRUEL + UNUSAL PUNISHMENT.

VII. RELIEF

State **BRIEFLY** and **EXACTLY** what you want the Court to do for you. Make no-legal arguments. Cite no cases or statutes.

I WANT CASE MGR MCCALL, TO RETURN MY LEGAL MAIL
 AND/OR FULL TRIAL BY JURY, ATTACH A JUDGMENT, AGAINST
 HIM FOR \$1,000,000.00 DOLLARS.

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DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at FCI HAZELTON on 1-25-2021
(Location) (Date)

James Cole
Your Signature

Attachment E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JAMES POLE
(41167066)
Your full name

v.

Civil Action No.: _____

CASE MGR L9 McALL
FCI HAZELTON.

Enter above the full name of defendant(s) in this action

Certificate of Service

I, JAMES POLE (your name here), appearing *pro se*, hereby certify
that I have served the foregoing CLERK OF COURTS (title of
document being sent) upon the defendant(s) by depositing true copies of the same in the
United States mail, postage prepaid, upon the following counsel of record for the
defendant(s) on 1-25-2021 (insert date here):

(List name and address of counsel for defendant(s))

James Pole
(sign your name)